

Amendments to Chapter 146
Hawaii Administrative Rules

(Date)

1. Subchapter 2, Hawaii Administrative Rules, is amended by amending Section 13-146-11 "Archaeological and historical features" and Section 13-146-40 "Vehicles and motorized bikes" to read:

Permitted & Prohibited Uses of the
Premises

- §13-146-7 Abandonment and unattended property
- §13-146-8 Agricultural use of premises
- §13-146-9 Aircraft
- §13-146-10 Animals
- §13-146-11 [Archaeological and historical features] Historic property and burial sites.
- §13-146-12 Audio devices
- §13-146-13 Boating
- §13-146-14 Camping
- §13-146-15 Communication equipment
- §13-146-16 Disorderly conduct
- §13-146-17 Explosives
- §13-146-18 False report
- §13-146-19 Firearms and other weapons
- §13-146-20 Fires
- §13-146-21 Fishing
- §13-146-22 Gambling
- §13-146-23 Geological features
- §13-146-24 Golfing
- §13-146-25 Intoxication; drug incapacitation
- §13-146-26 Lost and found articles
- §13-146-27 Memorialization
- §13-146-28 Modelcraft operation; kite flying
- §13-146-29 Parking
- §13-146-30 Picnicking
- §13-146-31 Portable engines and motors
- §13-146-32 Public property
- §13-146-33 Report of injury or damage
- §13-146-34 Residence prohibited
- §13-146-35 Sanitation and litter
- §13-146-36 Skating; skateboards; bicycling
- §13-146-37 Soliciting
- §13-146-38 Swimming; nudity
- §13-146-39 Tampering with vehicle or vessel

§13-146-40 Motorized [V]vehicle [and motorized bike] operation.

§13-146-41 Wildlife

§§13-146-42 to 13-146-49 (Reserved)

2. Section 13-146-2, Hawaii Administrative Rules, is amended by amending the definition of "abandoned property" to read:

"Abandoned property" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles or vessels that [has] have been left unattended on land owned or controlled by the State for a continuous period of more than twenty-four hours without the written permission of the board or its authorized representative." [Eff 4/16/90; am and comp 6/8/99; am] (Auth: HRS §184-5) (Imp: HRS §§ 171-1 184-5)

3. Section 13-146-2, Hawaii Administrative Rules, is amended by amending the definition of "authorized representative" to read:

"Authorized representative" means any person authorized by the board of land and natural resources to act for the board including the chairperson, deputy directors, park administrators, park superintendents, park managers, [and] conservation enforcement officers[.], and private security." [Eff 4/16/90; am and comp 6/8/99; am] (Auth: HRS §184-5) (Imp: HRS §§ 171-1 184-5)

4. Section 13-146-2, Hawaii Administrative Rules, is amended by amending the definition of "Motor vehicle" to read:

"Motorized vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, off highway vehicles such as all terrain vehicles, motorcycles, motor bikes, go-carts, motorcycles, motor scooters, mopeds, and dune buggies whether the vehicle is licensed or unlicensed." [Eff 4/16/90; am and comp 6/8/99; am] (Auth: HRS §184-5) (Imp: HRS §§ 171-1 184-5)

5. Section 13-146-3, Hawaii Administrative Rules, is amended by amending "Penalties" to read:

"§13-146-3 Penalties. [Any person who violates any provision of this chapter shall be held liable for restoration of or restitution for any damages to public or private property, shall also be subject to the confiscation of any tools and equipment used in the violation and of any plants, objects or artifacts removed illegally from the premises, and shall be guilty of a petty misdemeanor.] Any person violating any provision of this chapter, or any term or condition of any permit issued hereunder, shall be subject to administrative, civil and criminal penalties as provided by law." [Eff 4/16/97; comp 6/08/99; am] (Auth: HRS

§§171-6, 171-6.4, 171-31.6, 184-5, 184-5.5) (Imp: §§171-6, 171-6.4, 171-31.6, 184-5, 184-5.5)

6. Section 13-146-5, Hawaii Administrative Rules, is amended to read:

"§13-146-5 User Fees. Fees, as set by the board may be charged for:

- (1) Permits as noted in sections 13-146-50[(b) (8), (9), (d) (4)]; 13-146-51[(e) (1), (2), (3), (4), (5)]; 13-146-52[(c) (1), (2), (3), (4), (d) (4)]; 13-146-54[(g)]; 13-146-66; 13-146-67[(b)]; 13-146-68;
 - (2) Parking, and;
 - (3) Entrance [to Diamond Head State Monument]."
- [Eff 6/08/99; am and comp 6/08/99; am] (Auth: HRS §184-3) (Imp: HRS §184-3)

7. Section 13-146-7, Hawaii Administrative Rules, is amended by amending subsection e) to read:

"§13-146-7 Abandonment and unattended property.

(e) Abandoned vehicles [shall] may be sold at public auction pursuant to section 290-11, HRS. All other 146-5 impounded or confiscated property shall be [sold at public auction] disposed of pursuant to section [199-7,] 171-31.5, HRS." [Eff 4/16/90; am and comp 6/08/99; am] (Auth: HRS §184-5) (Imp: HRS §§184-5, 290-11, 171-31.5, 199-7)

8. Section 13-146-10, Hawaii Administrative Rules, is amended by amending subsection (d) to read:

"§13-146-10 Animals.

(d) No person shall have, possess, or ride horses except in areas designated for this purpose by the board or its authorized representative, by permit or appropriate signs." [Eff 4/16/90; am and comp 6/08/99; am] (Auth: HRS §184-5) (Imp: HRS §§ 184-5)

9. Section 13-146-11, Hawaii Administrative Rules, is amended to read:

"§13-146-11, [Archaeological and historical features. No person shall appropriate, damage, remove, excavate, disfigure, deface, or destroy objects of antiquity, prehistoric ruins and monuments; provided, however, that the board or its authorized representative may permit qualified persons or institutions to examine ruins, excavate archaeological sites and gather objects of antiquity."] Historic property and burial sites. No person, natural or corporate, shall knowingly take appropriate, excavate, injure, destroy, or alter any historic property or burial site in the state park system, provided, however, that:

- (1) The board or its authorized representative may permit a person to conduct activities that would alter historic properties or burial sites; and
- (2) The person issued the permit meets professional qualifications established in accordance with chapter 6E, Hawaii Revised Statute, and its implementing administrative rules, and
- (3) The person issued the permit possess an annual permit to conduct archaeological activities in Hawaii when archaeological activities will be undertaken; and
- (4) The work undertaken shall comply with all applicable requirements of chapter 6E, Hawaii Revised Statutes, and its implementing administrative rules." [Eff 4/16/90; comp 6/8/99; am] (Auth: HRS §184-5) (Imp: HRS §§ 184-5, 6E-3, 6E-7, 6E-8, 6E-11, 6E-43, 6E-43.6)

10. Section 13-146-19, Hawaii Administrative Rules, is amended by amending subsection (a) to read:

"§13-146-19 Firearms and other weapons. (a) No person shall use or possess bow and arrows, crossbows, firearms, pellet or BB guns, paintball guns, slingshots, or other implements designed to discharge missiles except as provided herein." [Eff 4/16/90; am and comp 6/08/99; am] (Auth: HRS §184-5) (Imp: HRS §184-5)

11. Section 13-146-32, Hawaii Administrative Rules, is amended by amending subsection (e) to read:

"§13-146-32 Public property.
(e) No person shall damage, destroy, dig, remove, or possess any tree, shrub or other plant, except for noxious weeds, as defined in chapter 4-68 unless authorized by the board or its authorized representative." [Eff 4/16/90; am and comp 6/08/99; am] (Auth: HRS §184-5) (Imp: HRS §184-5)

12. Section 13-146-35, Hawaii Administrative Rules, is amended by amending subsection (a) to read:

"§13-146-35 Sanitation and Litter.(a) All persons shall dispose of garbage, trash, refuse, waste material, and rubbish of any kind only at places designated for its disposal or shall remove it from the premises. [Trash shall be burned only in areas designated for burning.] No person shall remove refuse or garbage from refuse containers nor remove or relocate these containers. [Eff 4/16/90; am and comp 6/08/99; am] (Auth: HRS §184-5) (Imp: HRS §184-5)

13. Section 13-146-35, Hawaii Administrative Rules, is amended by amending subsection (f) to read:

"§13-146-35 Sanitation and Litter.
(f) No person shall deposit any body waste in or on any portion

of any comfort station or other public structure except into customary and proper receptacles provided by the State or by the permittee for that purpose. No person shall place any bottle, can, cloth, rag, metal, wood, stone, or any foreign substance in any of the fixtures in the station or structure. All comfort stations shall be used in a clean, sanitary, and orderly manner." [[Eff 4/16/90; am and comp 6/08/99; am] (Auth: HRS §184-5) (Imp: HRS §184-5)

14. Section 13-146-40, Hawaii Administrative Rules, is amended to read:

"§13-146-40 Motorized [V]vehicle [and motorized bike] operation.

(a) No person shall drive or operate any motorized vehicles [and motorized bikes] including but not limited to, automobiles, trucks, vans, off highway vehicles such as all terrain vehicles, motorcycles, motor bikes, mopeds, scooters, and trail bikes except on designated trails and roads that are managed for motorized use, provided, however, that the use of a motorized wheelchair by an individual whose disability requires use of a wheelchair shall not be considered driving or operating a motorized vehicle.

(b) No person shall drive or operate any motorized vehicles [and motorized bikes] faster than posted speed limits, or in a reckless manner, or in a manner that endangers any person or property~~[.]~~, or damages park resources.

(c) No person shall drive or operate motorized vehicles or any other motorized or drawn equipment over, on, or across any road or bridge if the gross load of the vehicle exceeds the posted weight limits unless authorized by the board or its authorized representative.

(d) No person shall drive or possess unlicensed vehicles and off highway vehicles in any park area except for use on trails, roads and in other areas designated for off highway vehicle use by appropriate signage. Eff 4/16/90; am and comp 6/08/99; am]
(Auth: HRS §184-5) (Imp: HRS §184-5)

15. Section 13-146-50, Hawaii Administrative Rules, is amended to read:

"§13-146-50 General provisions. (a) Permits governing the use of public facilities and areas within the premises shall consist of the following types:

- (1) Camping
- (2) Lodging
- (3) Group use
- (4) Special use

(b) The board or its authorized representative may issue permits. The following conditions shall apply to all permits:

- (1) Permits shall be issued on a first-come first-served basis.

The board or its authorized representative may withhold a portion of the available permits to be issued to walk-in applicants on a first-come first-served basis.

- (2) All responsible persons eighteen years of age or older shall be eligible to secure permits.
- (3) Permits shall be obtained by the means determined by the board, including, but not limited to, from the district offices of the department[.], through concessionaires, or electronically through the Internet. [Addresses of the district offices are as follows:
 - (A) Oahu: 1151 Punchbowl Street
Honolulu, Hawaii 96813
 - (B) Hawaii: 75 Aupuni Street
Hilo, Hawaii 96720
 - (C) Maui: 54 High Street
Wailuku, Maui, Hawaii 96793
 - (D) Kauai: 3060 Eiwa Street
Lihue, Kauai, Hawaii 96766
 - (E) Molokai: Picnic permits for Palaau
State Park shall be obtained from the park caretaker.]
- (4) Permits obtained at the district offices shall be obtained between the hours of 8 a.m. and 3:30 p.m. on regular working days of the department.
- (5) Permits are not transfer[r]able.
- (6) Persons or organizations to whom permits are issued are bound by the permit conditions stipulated on or attached to the permit and any applicable federal, state, and county laws, ordinances, rules and regulations.
- (7) The size of groups as well as the length of time any permit may be in effect may be limited by the board or its authorized representative.
- (8) Fees and charges as set by the board shall be assessed for permits to defray the cost of special facilities, services, or supplies provided by the State, or to meet other conditions as the board or its authorized representative may prescribe to carry out the provisions of chapter 184, HRS. Charges may be waived by the board if, in their opinion, the waiver is in the public interest and benefits the State.
- (9) All payments of fees and charges shall be in U.S. funds, and by credit card, in cash, cashier's check, certified check, traveler's check, postal money order, or bank money order, provided that personal or business checks may be used to pay for events that will occur thirty or more days after the date of the payment.
- (10) All permittees shall, upon request, show the permit to any law enforcement officer, the board or its authorized representative.
- (11) Other procedures, terms and conditions deemed by the board or its authorized representative necessary to carry out the provisions of chapter 184, HRS, this chapter, or any

applicable federal, state, or county statute, ordinance, or rule.

(c) Permits may be denied when:

- (1) The premises or park facilities are closed or will be closed because of damages, or because of scheduled or ongoing construction, repairs, or maintenance activities, or because of other reasons.
- (2) A state of emergency is declared by the board or other proper authorities.
- (3) Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes.
- (4) There are inadequate facilities to meet the needs of the applicant for the permit.
- (5) The premises or facilities will be used by other permittees.
- (6) The applicant has a prior record of noncompliance with permit conditions or violations of this chapter.

(d) Permits may be denied, cancelled or terminated at any time without advance notice when:

- (1) A state of emergency is declared by the board or other proper authorities.
- (2) Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes.
- (3) Permittees violate or have previously violated permit conditions or provisions of this chapter.
- (4) Fees, as required, are not paid." [Eff 4/16/90; am and comp 6/08/99; am]

(Auth: HRS §184-5) (Imp: HRS §184-5)

16. Section 13-146-51, Hawaii Administrative Rules, is amended to read:

"§13-146-51 Camping permits. (a) The following provisions shall apply to camping:

- (1) Camping and the use of recreational trailers or other camper units is only permitted at locations designated by the board or its authorized representative.
 - (2) The board or its authorized representative may establish check-in and check-out times for camping facilities.
 - (3) The installation or construction of permanent camping facilities is prohibited except as authorized by the board or its authorized representative.
 - (4) The digging or leveling of the ground at any campsite is prohibited except with the written permission of the board or its authorized representative.
 - (5) Camping equipment shall be completely removed and the campsite cleaned before departure from the site.
- (b) All persons, groups, organizations, or associations

desiring to camp shall obtain a camping permit authorizing the use of specific camping areas and facilities:

- (1) Applicants for camping permits shall provide their name, [and] address, telephone numbers, identification numbers and the names [and identification numbers] of all persons [eighteen] three years of age or older covered by the permit, and identification satisfactory to the board or its authorized representative[.], if requested.
- (2) Each permit will reserve the use of the desired camping area for a specified date or dates.
- (3) Requests for camping permits and confirmation of the same for state operated campsites shall be made either through the internet, a direct visit to the district offices, by telephone, or through the mail. Reservations for campsites operated by concessionaires shall be made directly with the concessionaire.
- (4) The maximum camping duration under each permit at any one park or campground shall be five consecutive nights.
- (5) Persons [eighteen] three years of age or older shall have their names [and identification numbers] printed on the permit to be allowed to camp.
- (c) Camping permits shall be denied when:
 - (1) The size of the group exceeds the capacity of the existing facilities; or
 - (2) The applicant or any person to be covered by the permit has camped in or has been issued a camping permit for the same park or campground within a period of thirty days preceding the requested camping dates.
- (d) No person, group, organization, or association shall remain at any one specified park, camping area, or backcountry, or in isolated sections of the premises for a period longer than five nights; provided however, that the board or its authorized representative may extend the stay for good cause. The board or its authorized representative may establish lower maximum camping periods for specific areas.
- (e) Payment of fees and charges for camping permits shall be set by the board and the following shall apply:
 - (1) Payment of the total cost of camping is required to receive a permit. The fee shall be paid [within fourteen calendar days after] on the date the reservation is made[; otherwise, the reservation shall be cancelled and the campsite made available to other applicants].
 - (2) [Provided, however, for any permit issued at a district office within thirty days of the first day of permitted use, the total cost of the permit is due at the time of permit issuance.] A service fee may be charged for permit issuance, changes to or cancellation of an issued camping permit.
 - (3) [A security deposit of \$30 per campsite may be required if an applicant for a campsite permit has a prior record of noncompliance with permit conditions or violations of this

chapter. Refund of the security deposit will be made provided that the permittee complies with permit conditions and with this chapter.]

[(4)] Refund of the total cost of the permit [including security deposit, if any, will only be made if the permittee notifies the district office that issued the permit] less any service fee, may be made through the internet or by notifying the district office, in writing, of the cancellation a minimum of fifteen days prior to the first day of permitted use.

(5) (4) Permits which are paid in full, and not cancelled by the permittee, shall remain valid for the entire duration of the permit period.

[(f) Minors below the age of eighteen shall be allowed to camp provided that they are under the direct supervision of one responsible adult for every ten minors. All minors from the same family accompanied by at least one of their parents shall be allowed to camp, regardless of the ratio of supervision between parent and children."]

[Eff 4/16/90; am and comp 6/08/99; am]
(Auth: HRS §184-5) (Imp: HRS §184-5)

17. Section 13-146-52, Hawaii Administrative Rules, is amended to read:

"§13-146-52 Lodging permits. (a) All persons, groups, organizations, or associations desiring to use a cabin facility shall obtain a lodging permit authorizing the use of specific cabin or cabins and facilities:

- (1) Applicants for lodging permits shall provide their name, [and] address, telephone numbers and identification numbers, and the names [and identification numbers] of all persons [eighteen] three years of age or older covered by the permit, and identification satisfactory to the board or its authorized representative[.], if requested.
- (2) Each permit shall reserve the use of the cabin facility named in the permit for a specified date or dates.
- (3) Requests for lodging permits and confirmation of the same for state operated lodging units shall be made either through the internet, a direct visit to the district offices, by means of telephone, or through the mail. Reservations for lodging units operated by concessionaires shall be made directly with the concessionaire.
- (4) The maximum stay at any one or more cabins in a specific park shall be five consecutive nights. The board or its authorized representative may extend the permit for good cause.
- (5) Persons [eighteen] three years of age or older must have their names [and identification numbers] printed on the permit to be allowed to stay in cabin facilities.

(b) A lodging permit shall not be issued if the applicant or any person to be covered by the permit has occupied or will occupy a cabin in the same park within a period of thirty days preceding the

requested lodging dates.

(c) Payment of fees and charges for lodging permits shall be as follows:

- (1) ~~[A deposit of fifty per cent]~~ Payment of the total cost of lodging is required to confirm the reservation. The ~~[deposit]~~ fee shall be paid ~~[within fourteen calendar days after]~~ on the date the reservation is made~~[/; otherwise, the reservation shall be cancelled and the cabin made available to other applicants]~~.
- (2) [The payment of the remaining fifty per cent of the cost shall be made before or upon issuance of the key to the cabin.] A service fee may be charged for permit issuance, changes to or cancellation of an issued lodging permit.
- (3) A security deposit of \$30 per cabin may be required if an applicant for a lodging permit has a prior record of noncompliance with the permit conditions or violations of this chapter. Refund of the security deposit will be made provided that the permittee complies with permit conditions and with this chapter.
- (4) Refund of ~~[deposits and any prepayments of the remaining fifty per cent of]~~ the total cost of the lodging~~[will be made if the permittee notifies the district office that issued the permit]~~, less any service fee, may be made through the internet or by notifying the district office, in writing, of the cancellation a minimum of fifteen days prior to the first occupancy date designated on the permit.
- (d) Lodging permits shall be issued subject also to the

following conditions:

- (1) Permittee shall be responsible for clean up of the cabin.
- (2) Permittee shall be responsible for the repair or replacement of any missing or damaged property.
- (3) The department shall not be responsible for any personal article left or lost by permittee.
- (4) If the permittee fails to properly notify the department or fails to occupy the cabin on the first scheduled day of occupancy, the permit shall be cancelled and any deposit forfeited; provided that if the permittee prepaid the entire rental fee, the permit will remain valid for the entire duration of the permit period. [Eff 4/16/90; am and comp 6/08/99; am] (Auth: HRS §184-5)
(Imp: HRS §184-5)

18. Section 13-146-54, Hawaii Administrative Rules, is amended to read:

§13-146-54 Special use permits. (a) Special uses shall be permitted only with a special use permit issued by the board or its authorized representative. Special uses are all types of uses other than camping, lodging, group use and activities permitted under chapter 13-7 which are considered compatible with the functions and purposes of each individual area, facility, or unit of the premises.

(b) Requests for permits for special uses shall each be considered on its own merits, including its effect on the park area, facilities, and public's use and enjoyment.

(c) Special uses include but are not limited to:

- (1) Day use permits, commercial tours and weddings; and
- (2) Such activities as assemblies, carnivals, celebrations, concerts, demonstrations, festivals, gatherings, meetings, pageants, parades, and other community or ethnic oriented events, or activities, or other spectator attractions that are open to the general public or to restricted groups.

(d) Requests for permits, other than those listed in subsection (c), paragraph (1), above, shall be submitted to the department a minimum of forty five days before the date of use being requested for all special use activities or events, including those involving the charging of fees, the sale of goods or services, sponsorship or co-sponsorship by commercial establishments.

(e) Requests for special use permits shall be submitted to the state parks administrator in writing and shall provide the name, address, and phone number of the applicant, the date, time, duration, nature, and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith. If the event is for the purpose of raising funds, a statement on how the profits will be used is required.

(f) Permits may be denied when:

- (1) A prior permit for the same time and place has been or will be granted;
- (2) The event presents a clear and present danger to the public health or safety;
- (3) The event is of a nature or duration that cannot reasonably be accommodated in the particular park area applied for;
- (4) The event will significantly interfere or conflict with the public's general use and enjoyment of the particular park area applied for;
- (5) The event will threaten, endanger, or disturb natural and historical resources of the particular park area applied for;
- (6) Applications or requests for permits are not received by the department within the times specified in subsection (d);
- (7) The application or request is for commercial use of the Iolani Palace and the grounds of the Iolani Palace including the coronation stand and the Iolani Barracks.

(g) The permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, reasonable limitations on the time and area within which the event is permitted, fees, and requirements for liability insurance coverage.

(h) The board or its authorized representative may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when the number of

persons under the permit is one hundred or more." [Eff 4/16/90; am
and comp 6/08/99 am] (Auth: HRS 184-5)
(Imp: HRS §184-5)

19. Material, except source notes, to be repealed is bracketed. New material is underscored.

20. Additions to update source notes to reflect these amendments are not underscored.

21. These amendments to and compilation of chapter 13-146, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

LAURA H. THIELEN
Chairperson
Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General